

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No: 3:17-CV-652-RJC-DSC

SNYDER’S-LANCE, INC. and
PRINCETON VANGUARD, LLC,

Plaintiffs,

v.

FRITO-LAY NORTH AMERICA, INC.,

Defendant.

JOINT MOTION TO ADMIT THE RECORD
OF THE TRADEMARK TRIAL AND
APPEAL BOARD

Plaintiffs Snyder’s-Lance, Inc. and Princeton Vanguard, LLC, and Defendant Frito-Lay North America, Inc., by and through their undersigned attorneys, jointly move this Court for an order directing that the record of the proceedings before the Trademark Trial and Appeal Board (“TTAB” or the “Board”) of the United States Patent and Trademark Office (the “USPTO”), Opposition No. 91195552¹ and Cancellation No. 92053001, be transmitted to this Court and made a part of the record of these proceedings, pursuant to 15 U.S.C. § 1071(b)(3). The grounds and reasons for this relief are as follows:

1. This is a civil action pursuant to 15 U.S.C. § 1071(b) seeking review of an administrative decision of the TTAB dated September 6, 2017, and captioned *Frito-Lay North America, Inc. v. Princeton Vanguard, LLC*, Opposition No. 91195552, Cancellation No. 92053001, 124 U.S.P.Q.2d 1184 (the “Decision”).

2. In order to review the Decision, the record before the TTAB must be transmitted to this Court and made part of the record of this proceeding.

¹ The record for Opposition No. 91195552 also includes Opposition No. 91190246, which was consolidated therein.

3. The authority for admission of the record below resides in 15 U.S.C. § 1071(b)(3) which states: “In suits brought hereunder, the record in the United States Patent and Trademark Office shall be admitted on motion of any party . . .”

4. The process by which the record is transmitted to the Court from the USPTO is described in the Trademark Board Manual of Procedure (“TBMP”) §904.02, which states, “The Board will release the original record for submission (via the Office of the Solicitor) to the court in which the civil action is pending only upon order of the court.”

5. Pursuant to TBMP §904.02, the Office of the Solicitor of the USPTO is responsible for the assembly and transmission of the record to this Court and it shall do so upon receipt of an order from this Court sent to:

The Office of the Solicitor
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-145

6. Accordingly, pursuant to 15 U.S.C. § 1071(b)(3), the parties respectfully request that this Court grant their motion and order that the TTAB record be transmitted to this Court and made part of the record of and admitted in this proceeding.

Respectfully submitted this 7th day of August, 2018.

/s/ Alexander M. Pearce
Jonathan D. Sasser
N.C. State Bar No. 10028
Alexander M. Pearce
N.C. State Bar No. 37208
ELLIS & WINTERS LLP
Post Office Box 33550
Raleigh, North Carolina 27636
Telephone: (919) 865-7000
jon.sasser@elliswinters.com
alex.pearce@elliswinters.com

Attorneys for Plaintiffs Snyder’s-Lance,
Inc. and Princeton Vanguard, LLC

/s/ Alice C. Richey
Alice C. Richey
N.C. State Bar No. 13677
Abigail W. Henderson
N.C. State Bar No. 52182
ALEXANDER RICKS, PLLC
4601 Park Road, Suite 580
Charlotte, North Carolina 28209
Telephone: (704) 365-3656
alice@alexanderricks.com
abbie@alexanderricks.com

Attorneys for Frito-Lay North America, Inc.